

REMARKS

Applicants thank the Examiner for total consideration given the present application. Claims 1-18 are currently pending of which claims 1, 6-8, 10, 15-17 are independent. Claims 10 and 15-17 have been amended through this Reply. Upon careful review, one would conclude that no new matter has been added to the application via this amendment. Applicants respectfully request reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seek timely allowance of all pending claims.

Claim Objection

The Examiner alleges that claims 10 and 15 are substantial duplicate of claim 16. Applicants respectfully submit that the Examiner's such allegation is totally erroneous. Each of claims 10, 15, and 16 recites at least one differing element. For example, claim 10 is broader in scope than claim 15 in that claim 10 does not require "time-varying" degree of media importance as recited in claim 15. Further, the transmission-data generating step of claim 16 is different than the transmission-data generating step of claims 10 and 15 in that the transmission-data generating step of claim 16 requires "generating a change command" for changing said initial metadata according to a variation with time of said degree of media importance".

Therefore, for at least the above reasons, it is respectfully submitted that claims 10 and 15 are not substantial duplicates of claim 16.

The Examiner further alleges that claims 1 and 6 are substantial duplicates of claim 7. Claims 1, 6, and 7 are directed to an apparatus corresponding to the method of claims 10, 15, and 16, respectively. Thus, at least for the reasons stated with respect to claims 10, 15, and 16, it is respectfully submitted that claims 1 and 6 are not substantial duplicates of claim 7.

Accordingly, the Examiner is requested to withdraw this objection.

Claim Rejection - 35 U.S.C. § 101

Claims 1-9 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Particularly, the Examiner alleges that these claims are directed to system comprising "software per se". Applicants again respectfully traverse this rejection.

First, it is again respectfully submitted that the Examiner's characterization of the claimed invention as a system comprising "software per se" is totally illogical. The Examiner acknowledges that the claimed invention is directed to a "system". A "system" by its definition is a "physical object" or a "machine", which are statutory under 35 U.S.C. § 101. Such system simply cannot merely comprise "software per se" as alleged by the Examiner.

Second, independent claims 1, 6, and 7 are each directed to a media delivering "apparatus" which comprises "a parameter acquiring unit"; "a transmission-data generating unit"; a "data transmitting unit"; and "a media communication unit" wherein each of these units performs specific functionality. Independent claim 8 is directed to a media receiving "apparatus" which comprises "a data receiving unit"; "a data analyzing unit"; "an RTSP communication unit"; and "a media display unit" transmission-data generating unit"; a "data transmitting unit"; and "a media communication unit" wherein each of these units performs specific functionality. All of the above-identified units are "physical objects" not "software per se" as alleged by the Examiner.

In response to previously filed arguments, the Examiner merely alleges that the claimed invention does not positively recite "hardware". Applicants submit that these claims positively recite an "apparatus" which by definition is hardware.

Further, the Examiner is again respectfully requested to study the instant Specification thoroughly where functionality of the each above-identified units have been described in relation to both hardware and software component. For example, the Specification clearly describes media data as "video images" generated by video cameras. Further, the Specification describes that the media data (e.g., video images) is displayed by the media receiving apparatus. (*See for example, pages 13 and 14 of the instant specification.*) Thus, at least the media receiving apparatus includes hardware component which displays media data as video images.

Therefore, for at least these reasons, it is respectfully submitted that claims 1-9 are statutory under 35 U.S.C. § 101. If the Examiner continues to maintain this rejection, the Examiner is again requested to provide detail explanations as to why the claims are non-statutory. A mere statement that "the "units" disclosed in the Specification are not merely

limited to hardware or software” without providing any detailed analysis is not sufficient to allege that the claims are non-statutory.

Although the Applicants do not necessarily agree with the Examiner that method claims 10 and 15-17 are non-statutory, these claims have been amended to recite “processor” merely to expedite prosecution.

Therefore, for at least the reasons stated above, it is respectfully requested to withdraw the non-statutory rejection against claims 1-10 and 15-17.

35 U.S.C. § 102 Rejection- Shinohara

Claims 1-18 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Shinohara (US 7,310,514 B2). This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

Independent claims 1, 6, and 7 are each directed to a “media delivering apparatus” which comprises, *inter alia*, “a transmission-data generating unit for generating metadata in which both address information indicating a location of said selected media data and presentation layout information indicating a presentation layout of said media receiving apparatus . . . delivering said media data in response to a request from said media receiving apparatus which has received said metadata.” (*Emphasis added.*)

It is respectfully submitted that Shinohara fails to teach or suggest the above-identified claim feature.

As previously submitted, Shinohara merely discloses a conventional multimedia communication system in which a media delivering apparatus, such as mobile telephone 10₁, sends multimedia messages to a media receiving apparatus, such as mobile telephones 10₂-10₄, via a network 60. (*See Fig. 3.*)

For example, when each of mobile telephones 10₁-10₄ as shown in Fig. 3 is first connected to network 60 upon turning on the power supply, information regarding the media types and formats that can currently be received as messages is transmitted to server 30. Each of mobile telephones 10₁-10₄ transmits in any way new information regarding the processing capability for each media type to server 30 when an external terminal is connected and the processing capability for each media type changes while the power supply is turned on. (See col. 6, lines 29-38.)

It is respectfully submitted that Shinohara cannot be relied upon to teach or suggest the claimed features directed to “generation of metadata” in which both address information indicating a location of the selected media data and presentation layout information indicating a presentation layout of the media receiving apparatus and “delivery of the metadata” to the media receiving apparatus as recited in independent claims 1, 6, and 7.

The Examiner relies on col. 7, lines 24-27 as disclosing the above-identified claim features. However, the relied upon section of Shinohara merely discloses that a user makes a determination based on displayed determination results from MMS whether to transmit multimedia message to a particular mobile telephone. Shinohara is completely silent on generation of any “metadata” which includes both address information where the selected media data can be found and “presentation layout information” indicating a presentation layout of the media receiving apparatus.

Further, it is respectfully submitted that none of mobile telephones 10₂-10₄ of Shinohara requests media data based on received metadata.

Further, independent claims 1, 6, and 7 are each directed to a “media delivering apparatus” which comprises, *inter alia*, “a parameter acquiring unit for acquiring at least one of a communication capability of said network and a receiving capability of said media receiving apparatus as a parameter.” (*Emphasis added.*) It is again respectfully submitted that Shinohara fails to teach or suggest the above-identified claim feature.

As previously submitted the server 30 first determines whether the multimedia message that is to be transmitted by mobile telephone 10₁ can be received at transmission-destination

mobile telephones 10₂-10₄, and then notifies mobile telephone 10₁ of these determination results. (See col. 7, lines 6-10.)

Shinohara is distinguished from the claimed invention in that nowhere does Shinohara teach or suggest that the media delivering apparatus (mobile telephone 10₁) includes a parameter acquiring unit which acquires at least one of a communication capability of network 60 and a receiving capability of mobile telephones 10₂-10₄ as a parameter. Shinohara merely suggests that mobile telephone 10₁ may require processing capability of mobile telephones 10₂-10₄ to determine whether to send multimedia message based on the results provided by server 30. Neither the cited portion nor any other portions of Shinohara teaches or suggests the above-identified claim feature.

Although Shinohara's mobile telephones include Code Division Multiple Access (CDMA) capability, nowhere does Shinohara teach or suggest the claimed feature of "a parameter acquiring unit for acquiring at least one of a communication capability of said network and a receiving capability of said media receiving apparatus."

The Examiner is again reminded that to establish a *prima facie* case of anticipation, the cited reference must expressly or inherently teach all claim limitations. In this instance, it is respectfully submitted that Shinohara neither expressly nor inherently teach or suggest, *inter alia*, "a parameter acquiring unit for acquiring at least one of a communication capability of said network and a receiving capability of said media receiving apparatus as a parameter."

Shinohara merely suggests that the mobile telephones 10₁-10₄ communicate with each other via network 60 by way of wireless lines, for example CDMA. This does not anticipate that mobile telephone 10₁ includes a parameter acquiring unit for acquiring communication capability of the network 60. CDMA is a specific way of communication in a multimedia communication system. CDMA capability for mobile telephone 10₁ means that it will communicate with mobile telephones 10₂-10₄ by the specific code division multiple access communication method via network 60. Nowhere does Shinohara teach or suggest that this CDMA capability will expressly or inherently allow mobile telephone 10₁ to acquire information regarding the communication

capability of network 60 or receiving capability of the mobile telephones 10₂-10₄ as a parameter.

Further, it is respectfully submitted that Shinohara fails to teach or suggest, *inter alia*, “a media selecting unit for selecting media data to be delivered based on both a degree of media importance as a parameter assigned to each of said media data and at least the one of said communication capability of said network and said receiving capability of said media receiving apparatus” as recited in independent claims 1, 6, and 7. (*Emphasis added.*)

The Examiner now relies on col. 8, lines 30-31 of Shinohara as disclosing the above-identified feature. It is respectfully submitted that the Examiner’s interpretation of the relied upon section of Shinohara is clearly erroneous. The relied upon section merely suggests that a data unit 75 stores and reads various data in accordance with instructions from control unit 72. Nowhere does Shinohara disclose that the “instructions” from control unit 72 include information regarding a degree of media importance as a parameter assigned to each media data and at least the one of said communication capability of network 60 and the receiving capability of the mobile telephones 10₂-10₄ media receiving apparatus.

Therefore, for at least these reasons, Shinohara is distinguishable from claims 1, 6, and 7.

Independent claim 8 is directed to a media receiving apparatus which comprises a data receiving unit for receiving metadata in which both address information indicating a location of media data to be delivered and presentation layout information indicating a presentation layout of said media receiving apparatus are described. Further, claim 8 recites that the data receiving unit receives the metadata based on “a degree of media importance” and at least one of a “communication capability of said network” and “receiving capability” of the media receiving apparatus “as a parameter”.

As demonstrated above in great detail, with respect to claims 1, 6, and 7, it is respectfully submitted that Shinohara does not anticipate the above-identified features of claim 8.

Therefore, for at least these reasons, Shinohara is distinguishable from claim 8.

Accordingly, it is respectfully submitted that independent claims 1 and 6-8 are allowable over Shinohara. Claims 2-5 and 9 are at least allowable by virtue of their dependency on allowable independent claim and further in view of novel features recited therein.

Claims 10-18 are directed to method claims corresponding to apparatus claims 1-9. Thus, at least for the reasons set forth above with respect to claims 1-9, claims 10-18 are also allowable over Shinohara.

CONCLUSION

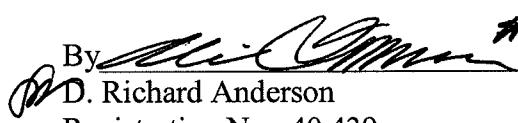
In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ali M. Imam Reg. No. 58,755 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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